

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Klima (Reg. 32,422) on 8/11/2011.

The application has been amended as follows: claim 56 shall be cancelled and claim 55 shall be amended as follows. All added language shall be underlined while all subtracted language shall be ~~struck through~~.

Claim 55. A sprinkler, comprising: a housing fitted with an inlet port extending into an inlet chamber and comprising a beveled diaphragm seal having a first face thereof exposed to pressure within the inlet chamber and a second face exposed to atmospheric pressure; and a stem member articulated to said beveled diaphragm seal and having an inlet end thereof extending into the inlet chamber and having an outlet end articulated to an irrigation head, wherein the diaphragm seal is normally retained in a first ~~toggle~~ retracted position where the sprinkler head is concealed within the housing, wherein water pressure within the inlet chamber deforms the beveled diaphragm seal into a second ~~toggle~~ operative position where the sprinkler head axially displaces and projects from and outside the housing, the stem member being radially supported to enable only sliding displacement in an axial direction from the inlet chamber towards the irrigation head without any tilt or rotation, and wherein the

diaphragm is fully contained within the housing in both the first and second toggle positions.

Claims 1-10, 18-35, 42, 43, 45, 46, 48 and 52-55 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 11-17, 36-41, 44 and 49-51, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 8/18/2008 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 1-46 and 48-55 are allowed.

The following is an examiner's statement of reasons for allowance: the limitation "a second operative position in which the irrigation head projects from and outside the housing" in combination with the limitation "wherein the diaphragm is fully contained

within the housing in both the first and second positions" in combination with the rest of the claimed limitations reads over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN M. CERNOCH whose telephone number is (571)270-3540. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/11/2011

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